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HOUSE BILL 614

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Candy Spence Ezzell

AN ACT

RELATING TO MINIMUM WAGES; AMENDING THE MINIMUM WAGE ACT TO PROHIBIT LOCAL GOVERNMENTS FROM REQUIRING A MINIMUM WAGE THAT EXCEEDS THE FEDERAL MINIMUM WAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer, except as provided in Section 50-4-21 NMSA 1978, shall pay the minimum wage rate of five dollars fifteen cents (\$5.15) an hour, except that an employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee.

B. All employees ~~[covered by]~~ subject to Subsection

underscoring material = new
[bracketed material] = delete

1 A of this section who customarily and regularly receive more
2 than thirty dollars (\$30.00) a month in tips shall be paid a
3 minimum hourly wage of two dollars twelve and one-half cents
4 (\$2.125). The employer may consider tips as part of wages, but
5 such a wage credit shall not exceed fifty percent of the
6 minimum wage. All tips received by such employees shall be
7 retained by the employee, except that nothing in this section
8 shall prohibit the pooling of tips among employees.

9 C. An employee [~~covered by~~] subject to the
10 provisions of Subsection A of this section shall not be
11 required to work more than forty hours in any week of seven
12 days, unless [~~he~~] the employee is paid one and one-half times
13 [~~his~~] the employee's regular hourly rate of pay for all hours
14 worked in excess of forty hours. For an employee who is paid a
15 fixed salary for fluctuating hours and who is employed by an
16 employer a majority of whose business in New Mexico consists of
17 providing investigative services to the federal government, the
18 hourly rate may be calculated in accordance with the provisions
19 of the federal Fair Labor Standards Act of 1938 and the
20 regulations pursuant to that act; provided that in no case
21 shall the hourly rate be less than the federal minimum wage.

22 D. A political subdivision shall not require a
23 minimum wage that exceeds the federal minimum wage prescribed
24 in 29 USCA 206. This subsection shall not apply to
25 requirements enacted by a political subdivision that take

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effect before the effective date of this 2005 act."